

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BRUCE B. WHITMAN,	:	Case No. 1:17-cv-667
	:	
Plaintiff,	:	Judge Thomas M. Rose
	:	
v.	:	
	:	
ESTATE OF ROY W. WHITMAN, ESTHER	:	
WHITMAN, EXTRX., ET AL.,	:	
	:	
Defendants.	:	

**ENTRY AND ORDER GRANTING DEFENDANT ALLIANZ LIFE
INSURANCE COMPANY OF NORTH AMERICA’S MOTION TO IMPLEAD
SUBJECT ANNUITIES (DOC. 21)**

This case is before the Court on the Motion to Implead Subject Annuities (“Motion to Implead”) (Doc. 21) filed by Defendant Allianz Life Insurance Company of North America (“Allianz”). Allianz requests an order impleading the property at issue in this action, which is the right to receive certain annuity payments, pursuant to 28 U.S.C. § 1335 and Fed. R. Civ. P. 22. No one has objected to the Motion to Implead, and the time to do so has expired. This matter is therefore ripe for review.

Allianz currently administers three annuities, which Roy Whitman, now deceased, purchased in 2001: Policy Number XXX9092 (Doc. 2-1, PAGEID # 324-43), Policy Number XXX9070 (Doc. 2-1, PAGEID # 345-65), and Policy Number XXX9081 (Doc. 2-1, PAGEID # 367-88). Policy Number XXX9081 naming Bruce D. Whitman (“Bruce”) is valued at \$14,500; Policy Number XXX9092 naming Joy Whitman (“Joy”) is valued at \$14,500; and Policy Number XXX9070 naming Laura Whitman (“Laura”) is valued at \$14,500. Allianz has no interest or claim to retain the rights to payment established by the annuity contracts; however,

there are competing claimants to the rights to payment under the annuities in that Bruce, Joy, and Laura have demanded distribution of the respective annuity payments to them. Roy's widow, Esther Whitman, has demanded distribution of the annuity payments to Roy's Estate. Due to these conflicting claims, Allianz is in doubt as to who is entitled to the annuity payments. Allianz therefore seeks an order directing it to hold the annuity payments or pay them into the Court's registry pending the resolution of the claims in this lawsuit.

Deposit of the annuity payments into the Court's registry is proper under 28 U.S.C. § 1335. Wherefore, noting that no objection has been filed, the Court hereby **GRANTS** the Motion to Implead (Doc. 21) and **ORDERS** Allianz to deposit all annuity payments due (including those that Allianz may have withheld pending the Court's ruling on the Motion to Implead) under Policy Number XXX9092 (Doc. 2-1, PAGEID # 324-43), Policy Number XXX9070 (Doc. 2-1, PAGEID # 345-65), and Policy Number XXX9081 (Doc. 2-1, PAGEID # 367-88) into the Court's registry. The Court further **ORDERS** Allianz to notify the Court and the parties of its initial deposit of such annuity payments (by filing a Notice in the Court's docket for this case) and to maintain a record of the source—by policy number—of all of the amounts deposited into the Court's registry. This Order shall remain in effect until further order of this Court.

DONE and **ORDERED** in Dayton, Ohio, this Friday, January 19, 2018.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE